

## **EXHIBIT 2**

**From:** John A. Morris  
**Sent:** Tuesday, March 15, 2022 12:22 PM  
**To:** Rukavina, Davor ([drukavina@munsch.com](mailto:drukavina@munsch.com)) <[drukavina@munsch.com](mailto:drukavina@munsch.com)>  
**Cc:** Hayley R. Winograd <[hwinograd@pszjlaw.com](mailto:hwinograd@pszjlaw.com)>; Berghman, Thomas ([tberghman@munsch.com](mailto:tberghman@munsch.com)) <[tberghman@munsch.com](mailto:tberghman@munsch.com)>  
**Subject:** Highland: HCMFA/HCMLP Claims Trial Issues

Davor,

I write concerning several issues related to the HCMFA/HCMLP claims litigation.

**1. Schedule**

Please confirm our agreement on the schedule below. Since none of the changes affect the Court, I am prepared to rely on this e-mail but please let me know if you'd prefer that we formally amend the Scheduling Order and, if so, please prepare a draft.

Deadline Current Proposed

Waterhouse deposition 3/15 3/29

File and serve W&E lists 3/22 3/31 (midnight)

Objections to Exhibits 3/29 4/4

JPT/trial brief, if any 4/5 4/5

Trial 4/12-13 4/12-13

**2. Trial**

You recently asked whether HCMLP would agree to have this trial conducted in person. After conferring with Mr. Seery, and assuming no meaningful changes in COVID protocol or infection rates, we're prepared to go forward live, subject to Court approval. Please let me know if we're authorized to reach out to Ms. Ellison to make the request with the Advisors' consent (copying you).

**3. Witnesses for trial**

Advisors' Witnesses. While it is still four weeks away and our plans are subject to change, please be advised that HCMLP currently intends to call Jim Dondero, Frank Waterhouse, and Dustin Norris on its case-in-chief. Please (a) confirm their availability, (b) let me know if they require trial subpoenas and, (c) if so, whether you will accept them on their behalf. We understand that Mr. Waterhouse remains an officer of the Advisors, but please let me know if I should speak with Dandeneau/Hartmann about Frank.

HCMLP's Witnesses. HCMLP also intends to call Jim Seery and David Klos on its case-in-chief. We will make them available for cross, but if you feel the need to serve trial subpoenas for them, I will accept them on their behalf.

Retail Board. The Retail Board is also being deposed. I would consider relying on the deposition transcript rather than calling the Retail Board live, but won't know for sure until after the deposition is completed. If the Advisors would object to HCMLP's reliance on the transcript because the Retail Board is subject to the Court's jurisdiction, that's fine – just let me know and I'll prepare a trial subpoena. If you want to wait until the deposition is over, that's fine, too.

4. Joint Pre-Trial Order

Given that HCMLP is the Plaintiff, Hayley and I are willing to take the lead in preparing the JPO. Since it is due on April 5, we hope to have a draft to you by March 29, a week before (it might slip a day because of the Waterhouse deposition, but's that our goal). We'll leave space in the initial draft for each party to add their narrative for claims/defenses, but otherwise expect that to be enough time to get that done.

5. Documents

- A. Legal Fees. As you noted during Mr. Seery's deposition, HCMLP is seeking to recover its costs and expenses in this litigation. Because the facts are dynamic (i.e., they change every day as additional time is spent), this is always a difficult exercise. Please be advised that we expect to produce our time records and related documents by April 1 so as to capture as much of the time and expenses as possible. If you feel the need to depose a witness on those documents, we'll make someone available the following week.
- B. Advisors' Post-Petition Payments to Highland Employees. We understand that the Advisors made direct, post-petition payments to certain HCMLP employees including, upon information and belief, Scott Ellington, Isaac, Leventon, Frank Waterhouse, Thomas Surgent, and JP Sevilla (the "Post-Petition Payments"). Please be advised that we expect to serve trial subpoenas on HCMFA and NexPoint for all documents and communications concerning any Post-Petition Payments. While we hope to serve the subpoenas before the end of next week, we wanted to provide the Advisors with advance notice of these issues.

That's all for now. We appreciate your prompt attention to these matters.

Regards,

John

**John A. Morris**

Pachulski Stang Ziehl & Jones LLP

Direct Dial: 212.561.7760

Tel: 212.561.7700 | Fax: 212.561.7777

[jmorris@pszjlaw.com](mailto:jmorris@pszjlaw.com)

[vCard](#) | [Bio](#) | [LinkedIn](#)